

## Conclusion

Since Indiana has non-attainment areas for particulates, Part D, as well as Section 110, of the Clean Air Act governs evaluation of this SIP revision.

1980 APC 3 is not as stringent as EPA normally requires for States which, like Indiana, have not attained the National Ambient Air Quality Standards. It does not represent "Reasonably Available Control Technology" for many source categories. In addition, the State of Indiana has failed to supply any quantitative analysis showing that the proposed rules, without tightening, are consistent with attainment and maintenance of the standards. The Indiana SIP, therefore, could not be regarded as meeting the full requirements of Part D of the Clean Air Act even if EPA were to make today's proposal final.

For these reasons, EPA will continue to evaluate the adequacy of this SIP and may require submission of supplementary information and control measures by Indiana; and, if necessary, EPA will take appropriate remedial action if deficiencies are not corrected.

1980 APC 3, however, does represent the current State position on the regulation of opacity of particulate sources in a situation where the existing regulatory system is plainly inadequate. It reflects the current State law and policy choices in an area substantially confused by a long history of litigation. It is in no way inconsistent with future adoption of additional rules to meet the full requirements of the Clean Air Act. EPA requests comment on this conclusion. In such exceptional circumstances, there is no reason for EPA not to propose approval of a State rule, which is both more clearly valid and generally stricter than the SIP provisions it replaces.

(2) Clarify that the rule applies to *all* sources of visible emissions. Therefore, both stack and non-stack sources are subject to the rule.

(3) Amend the regulation so that its internal references are consistent.

(4) Delete the term "intermittent source" from the regulation.

(5) Clarify Sections 3(a) and (b), which contain the term "continuous minutes". The intent of Section 3(a) is to allow one period per any 24-hour period during either a startup or shutdown where the opacity limits may be exceeded. This period cannot exceed 10 minutes in duration. Section 3(b) is intended to allow exceedances for boiler cleaning with such exceedances similarly limited to 3 occurrences in any 12-hour period, with no more than one occurrence in any 60 minutes, each occurrence being limited to a maximum of 5 minutes duration.

(6) Delete the provisions that in-stack monitors take precedence over observations by qualified personnel.

48 FR 55853-55854 (December 16, 1983).

## VIII. Miscellaneous

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291. Pursuant to the provisions of 5 U.S.C. 605(b), EPA certifies that SIP approvals under Sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. See 46 FR 8709 (January 27, 1982).

### List of Subjects in 40 CFR Part 52

Air pollution control, intergovernmental relations, ozone, sulfur oxides, nitrogen dioxide, lead, particulate matter, carbon monoxide, hydrocarbons.

Authority: 42 U.S.C. 7401-7642.

Date September 17, 1984.

Valdas V. Adamkus,  
Regional Administrator.

[FR Doc. 84-29839 Filed 11-14-84; 8:45 am]

BILLING CODE 6560-50-M

### 40 CFR Part 170

[OPP-250052; PH-FRL-2606-8]

### Worker Protection Standards for Agricultural Pesticides

#### Correction

In FR Doc. 84-21117, beginning on page 32605, in the issue of Wednesday, August 15, 1984, make the following correction:

On page 32607, column one, in the table, sixth entry "Phosaline" should read "Phosalone".

BILLING CODE 1505-01-M

## FEDERAL EMERGENCY MANAGEMENT AGENCY

### 44 CFR Part 67

[Docket No. FEMA-6630]

### Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations and proposed modified base flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified

for participation in the National Flood Insurance Program (NFIP).

**DATES:** The period for comment will be ninety (90) days following the second publication of the proposed rule in a newspaper of local circulation in each community.

**ADDRESSES:** See table below.

**FOR FURTHER INFORMATION CONTACT:** Dr. Brian R. Mrazik, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0700.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevations and modified base flood elevations for selected locations in the nation, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal



standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future

local actions. It imposes no new requirement; of itself it has no economic impact.

#### List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The proposed modified base flood elevations for selected locations are:

#### PROPOSED MODIFIED BASE FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	# Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Arizona	Mammoth (town) Pinal County	San Pedro River	Intersection of Main Street and Galiuro Street	(1)	*2,348
Maps available for inspection at Town Hall, Mammoth, Arizona. Send comments to the Honorable Dwight Large, P.O. Box 30, Mammoth, Arizona 85818.					
Arkansas	Jacksonville, City, Pulaski County	Jack Bayou Main Stem	Downstream side of U.S. Highway 67 & 167	N/A	*258
		Bayou Meto Main Stem	Upstream side of Missouri Pacific Railroad	N/A	*247
			Approximately 1.3 miles upstream of U.S. highway 67 & 167.	N/A	*251
		Rocky Branch	Confluence with Meto Bayou Main Stem	N/A	*249
Maps available for inspection at the Office of the City Engineer, City Hall, Jacksonville, Arkansas. Send comments to the Honorable James Reid, Mayor of the City of Jacksonville, P.O. Box 126, Jacksonville, Arkansas 72076.					
Arkansas	Little Rock, City, Pulaski County	Grassy Flat Creek	Downstream side of Converse Drive	*391	*392
			Upstream side of Interstate 430	*406	*405
			Market Street	*421	*419
			Downstream side of Plainwood Drive	*425	*424
			Upstream side of Pleasant Valley Drive	*456	*455
		Rock Creek	Downstream side of Asher Avenue	*270	*265
			Upstream side of Asher Avenue	*272	*268
			Upstream side of 36th Street	*278	*277
		Taylor Loop Creek	Approximately 1,200 feet downstream of Taylor Loop Road	(2)	*311
			Upstream side of Grishman Road	(2)	*319
			Approximately .37 mile upstream of Grishman Road	(2)	*331
			Upstream of Pebble Beach Drive	(2)	*382
			Approximately .47 mile upstream of Pebble Beach Drive	(2)	*384
Maps available for inspection at the City Hall, Room 203, Markham and Broadway Streets, Little Rock, Arkansas. Send comments to Honorable J.W. Benafeld, Mayor of the City of Little Rock, City Hall, Room 203, Markham and Broadway Streets, Little Rock, Arkansas 72201.					
California	Ontario (City of) San Bernardino County	Ponding Area	50 feet north of the San Bernardino Freeway Crossing Ontario Motor Speedway Drain	*985	*983
Maps available at Building Department, 303 East B Street, Ontario, California 91764. Send comments to Honorable Robert Ellingwood, 303 East B Street, Ontario, California 91764.					
Delaware	Fenwick Island, Town, Sussex County	Atlantic Ocean and Little Assawoman Bay	Intersection of King Street and Bunting Avenue	*11	*10
			Intersection of Bay Street and James Street	*9	*5
			East side of Intersection of Cannon Street and Ocean Highway	*10	*9
			Intersection of Madison Avenue and Glen Avenue	*7	*4
Maps available for inspection at the Fenwick Island Town Hall, Fenwick Island, Delaware. Send comments to Honorable Paul L. Negley, President of Fenwick Island Town Council, R.D. 1, Box 440, Selbyville, Delaware 19975.					
Delaware	South Bethany, Town Sussex County	Atlantic Ocean & Assawoman Canal	West side of intersection of New Castle Drive and Ocean Highway	*8	*7
			West side of intersection of Bayshore Drive and Ocean Highway	*8	*7
			Victoria Canal	*6	*4
			6th Canal	*6	*4
Maps available for inspection at the Town Hall, South Bethany, Delaware. Send comments to Honorable Margaret Gassinger, Mayor of the Town of South Bethany, 402 Evergreen Road, South Bethany, Delaware 19930.					
Georgia	Unincorporated Areas of Fulton County	Autry Mill Creek	At mouth	*892	*891
			About 1,400 feet upstream of mouth	*892	*881
		Ball Mill Creek	At mouth	*869	*872
			About 900 feet upstream of mouth	*871	*872
		Boat Rock Creek	At mouth	*757	*759
			About 600 feet downstream of State Route 70	*759	*759
		Ganey Creek	About 0.39 mile downstream of Shirley Bridge Extension	(2)	*994
			Just upstream of Shirley Bridge Extension	(2)	*1,007
		Chattahoochee River	About 200 feet upstream of the confluence of Camp Creek	*749	*749
			About 700 feet upstream of Interstate 20	*780	*785
			Just downstream of Powers Ferry Road	*790	*792
			Just downstream of Morgan Falls Dam	*813	*819
			Just upstream of Morgan Falls Dam	*854	*851
			About 1.2 miles upstream of State Route 141	*898	*898
		Colewood Creek	At mouth	*804	*806
			About 150 feet upstream of mouth	*806	*806
		Deep Creek	At mouth	*749	*748
			About 0.9 mile upstream of State Route 154	*749	*748
		Foe Killer Creek	At confluence with Big Creek	(2)	*962



## PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	# Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
		Long Island Creek	About 0.15 mile upstream of the confluence with Big Creek	(?)	*962
			About 0.30 mile upstream of Rucker Road	(?)	*1,034
			About 0.36 mile upstream of Mid Broadwell Road	(?)	*1,055
			At mouth	*775	*778
			About 0.32 mile upstream of mouth	*778	*778
			At mouth	*809	*811
			About 1,200 feet upstream of mouth	*811	*811
			At mouth	*754	*755
			About 2000 feet upstream of Riverside Drive	*754	*755
			Just upstream of Houze Road	(?)	*1,052
			About 0.14 mile upstream of Houze Road	(?)	*1,057
			About 480 feet upstream of Academy Street	(?)	*1,022
			About 860 feet upstream of Academy Street	(?)	*1,022
			At mouth	*757	*761
Illinois	Unincorporated Areas of St. Clair County	Little Canteen Creek	About 5,700 feet downstream of Circle Drive	(?)	*456
			About 800 feet upstream of Circle Drive	(?)	*473
			At mouth	*425	*425
			Just upstream of State Route 177	*425	*427
			About 2,300 feet upstream of Keck Road	*428	*427
			Just upstream of State Route 161	*431	*431
			Just downstream of State Route 158	*442	*438
			About 3,000 feet upstream of County Road 43	(?)	*509
			About 4,400 feet upstream of County Road 43	*514	*514
			Engle Creek		
Indiana	Town of Bristol, Elkhart County	St. Joseph River	About 1.29 miles downstream of Division Street	*754	*752
			About 0.77 mile upstream of Division Street	*758	*756
			At mouth	*757	*755
			About 0.59 mile upstream of State Route 15	*757	*757
			Little Elkhart River		
Indiana	City of Elkhart, Elkhart County	St. Joseph River	About 0.63 mile downstream of Nappanee Street	*721	*721
			Just downstream of Indiana & Michigan Electric Co. Dam	*731	*730
			Just upstream of Indiana & Michigan Electric Co. Dam	*742	*742
			About 1.55 miles upstream of the confluence of Puterbaugh Creek	*746	*743
		Elkhart River	At mouth	*730	*729
			Just downstream of Elkhart Avenue	*730	*729
		Puterbaugh Creek	At mouth	*744	*742
			Just downstream of Greenleaf Boulevard	*744	*742
Indiana	Unincorporated Areas, Elkhart County	St. Joseph River	About 1.72 miles downstream of the confluence of Pine Creek	*745	*743
			About 2.05 miles upstream of the confluence of Washington Township Ditch	*755	*752
			About 1,100 feet downstream of the east bound lane of the Indiana East-West Toll Road	*758	*756
			About 1.73 miles upstream of the confluence of Trout Creek	*762	*760
		Pine Creek	At confluence with St. Joseph River	*747	*744
			Just upstream of State Route 120	*748	*749
Iowa	City of Evansdale, Black Hawk County	Cedar River	About 1.5 miles downstream of confluence of Elk Run Creek	*838	*833
			About 3.55 miles upstream of Illinois Central Gulf Railroad	*845	*843
		Elk Run Creek	At mouth at Cedar River	*839	*836
			Just upstream of U.S. Highway 20	*844	*842
Louisiana	Lafayette, City Lafayette Parish	Lateral F	Approximately 500 feet upstream of upstream corporate limits	(*)	*32
			Upstream of U.S. Route 90	(*)	*36
		Lateral No. 1 West Channel			
Louisiana	Lafayette Parish	Beau Basin	Approximately 1,050 feet upstream of corporate limits at limit of flooding affecting parish	(*)	*41

Maps available for inspection at the Fulton County Courthouse, 165 Central Avenue SW., Atlanta, Georgia 30303.

Send comments to Honorable Michael Lomax, Chairman, County Commissioners, Fulton County, Fulton County Courthouse, 165 Central Avenue SW., Room 208, Atlanta, Georgia 30303.

Maps available for inspection at the Intergovernmental Grants Department, Community Development Division, St. Clair County Courthouse, Belleville, Illinois 62220.

Send comments to Honorable Jerry Castello, Chairman of the Board, St. Clair County, St. Clair County Courthouse, 19 Public Square, Belleville, Illinois 62220.

Maps available for inspection at the Bristol Town Hall, P.O. Box 122, Bristol, Indiana.

Send comments to Honorable Vivian Kane, Chairman of the Board, Bristol, P.O. Box 122, Bristol, Indiana 46507.

Maps available for inspection at the Planning Office, Municipal Building, Elkhart, Indiana 46516.

Send comments to Honorable James P. Perron, Mayor, City of Elkhart, Municipal Building, Elkhart, Indiana 46516.

Maps available for inspection at the Planning Department, Elkhart, Indiana.

Send comments to Honorable Hal Doriot, County Commissioner, County Commissioner's Office, Elkhart County Courthouse, Goshen, Indiana 46526.

Maps available for inspection at the Mayor's Office, 123 N. Evans Road, Evansdale, Iowa 50707.

Send comments to Honorable Frederick M. Saul, Mayor, City of Evansdale, 123 N. Evans Road, Evansdale, Iowa 50707.

Maps available for inspection at the Lafayette City Hall, P.O. Box 4017-C, Lafayette, Louisiana.

Send comments to Honorable Dud Lastrapes, Mayor of the City of Lafayette, P.O. Box 4017-C, Lafayette, Louisiana 70502.



## PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	# Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
	Lateral F2	West Coulee Mine..... Lateral F.....	Approximately 200 feet upstream of Interstate 10..... At downstream side of Old Spanish Trail..... At downstream corporate limits with Town of Scott..... Approximately 3,750 feet downstream of Interstate 90...	( <sup>3</sup> ) ( <sup>3</sup> ) ( <sup>3</sup> ) ( <sup>3</sup> )	*38 *33 *36 *32
Maps available for inspection at the Lafayette Parish Court P.O. Box 2009, Lafayette, Louisiana.					
Send comments to Honorable Don Guillot, Clerk of the Court of Lafayette Parish, P.O. Box 2009, Lafayette Parish, Louisiana 70502.					
Maryland.....	Anne Arundel County.....	Hall Creek.....	Downstream corporate limits..... Most upstream corporate limits..... Approximately 1,600' upstream of most upstream corporate limits.	( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> )	*44 *53 *55
Maps available for inspection at the Office of Planning and Zoning, Arundel Center, Room 202, Calvert and Clay Streets, Annapolis, Maryland.					
Send comments to Honorable O. James Lighthizer, Anne Arundel County Executive, Arundel Center, 44 Calvert Street Annapolis, Maryland 21401.					
Maryland.....	Laurel, City Prince Georges County.	Patuxent River..... Crows Branch.....	Downstream corporate limits..... Downstream side of State Route 198..... Confluence with Patuxent River..... Approximately 1,000 feet downstream of State Route 197.	( <sup>2</sup> ) *198 ( <sup>2</sup> ) ( <sup>2</sup> )	*122 *134 *122 *126
Maps available for inspection at the Laurel City Hall, Laurel, Maryland.					
Send comments to Honorable Robert J. DiPietro, Mayor of the City of Laurel, 350 Municipal Square, Laurel, Maryland 20707.					
Massachusetts.....	Boylston, Town, Worcester County.		Approximately 1,400 feet downstream of Sewall Pond Outlet. Sewall Pond Outlet..... Approximately 400 feet downstream of Access Road at YMCA culvert.	( <sup>2</sup> ) *400 *401	402 *402 *402
Maps available for inspection at the Municipal Office Building, 84 Main Street, Boylston, Massachusetts.					
Send comments to Honorable Guy Fuller, Chairman of the Boylston Board of Selectmen, 84 Main Street, Boylston, Massachusetts 01505.					
Michigan.....	City of Ann Arbor, Washtenaw County.	Huron River..... Allen Creek Overland Flow..... Eberwhite Drain Overland Flow..... Murray-Washington Drain Overland Flow. West Park-Miller Drain Overland Flow. West Park-Miller Drain North Branch Overland Flow. West Park-Miller Drain South Branch Overland Flow.	Just upstream of Broadway Street..... Just downstream of Argo Dam..... Just upstream of Argo Dam..... At mouth..... Just downstream of Conrail (downstream crossing)..... Just upstream of Conrail (downstream crossing)..... Just downstream of Hoover Avenue..... Just downstream of South Main Street..... At confluence with Allen Creek Overland Flow..... Just downstream of Lutz Avenue..... At confluence with Allen Creek Overland Flow..... Just downstream of 7th Street..... About 150 feet upstream of 7th Street..... About 1,000 feet upstream of 8th Street..... At confluence with Allen Creek Overland Flow..... At confluence of West Park-Miller Drain South Branch Overland Flow. At confluence with West Park-Miller Drain Overland Flow. Just downstream of Wesley Street..... At confluence with West Park-Miller Drain Overland Flow. Just downstream of North Revena Boulevard.....	*767 *774 *774 *773 *778 *779 *826 ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) ( <sup>2</sup> ) 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## PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
		South Branch Sugar River .....	At confluence with Sugar River .....	*791	*791
			Approximately 0.43 mile upstream of confluence with Sugar River.	*791	*788
Maps available for inspection at the Municipal Building, 15 Sunapee Street, Newport, New Hampshire. Send comments to Honorable Arnold Greenleaf, Chairman of the Board of Selectmen for the Town of Newport, 15 Sunapee Street, Newport, New Hampshire 03770.					
New Jersey .....	Lawrence, Township, Mercer County.	Shabakunk Creek .....	Upstream side of U.S. Route 1 .....	*54	*55
			Upstream side of U.S. Route 206 .....	*61	*63
			At confluence of West Branch-Shabakunk Creek .....	*62	*64
			At upstream corporate limits .....	*72	*73
		West Branch-Shabakunk Creek .....	At confluence of Shabakunk Creek .....	*62	*64
			At upstream corporate limits .....	*64	*68
		Little Shabakunk Creek .....	Upstream side of U.S. Route 1 .....	*51	*56
			Upstream side of Princeton Pike .....	*64	*65
			Upstream side of US 206 .....	*79	*82
			At abandoned railroad bridge (Trenton-Lawrenceville) .....	*96	*99
			Approximately 475' Upstream of abandoned railroad bridge (Trenton-Lawrenceville) .....	(?)	*101
		Tributary A .....	At confluence with Little Shabakunk Creek .....	*86	*88
			Approximately 350' upstream of confluence with Little Shabakunk Creek.	*87	*88
Maps available for inspection at the Township Manager's Office, 2207 Lawrenceville Road, Lawrenceville, New Jersey. Send comments to Honorable Robert J. Albertson, Lawrence Township Manager, P.O. Box 6006, Lawrenceville, New Jersey 08648.					
New Jersey .....	Montville, Township, Morris County.	Passaic River .....	Upstream Bloomfield Avenue .....	*173	*174
		Rockaway River .....	At confluence with Passaic River .....	*173	*174
			Upstream side of U.S. Route 46 .....	*174	*175
			Upstream side of Vall Road .....	*178	*177
			Approximately 200 feet upstream Knoll Road .....	*182	*184
		Crooked Brook .....	Approximately 700 feet above River Road .....	*183	*184
Maps available for inspection at the Engineering Office, Sisco House, 132 Chain Bridge Road, Montville, New Jersey. Send comments to Honorable Frederick E. Eckhardt, Mayor of the Township of Montville, 86 River Road, Montville, New Jersey 07045.					
New Jersey .....	Stone Harbor, Borough, Cape May County.	Atlantic Ocean .....	Intersection of Third Avenue and 122nd Street .....	*12	*10
Maps available for inspection at the Stone Harbor Borough Hall, New Jersey. Send comments to Honorable E. F. Pain, Administrative Assistant for the Borough of Stone Harbor, 9508 2nd Avenue, Stone Harbor, New Jersey 08247.					
New York .....	Fayetteville, Village, Onondaga County.	Limestone Creek: Main Channel (Before Levee overtopping) .....	Upstream of dam .....	*438	*436
			Approximately 90' downstream of Limestone Plaza .....	*438	*437
			Upstream of East Genesee Street .....	*444	*441
			Approximately 1,400' downstream of corporate limits .....	*454	*445
			At upstream corporate limits .....	*457	*452
		Limestone Creek: Overbank .....	Upstream side of Kennedy Street (extended) .....	*438	*433
			Upstream of East Genesee Street .....	*444	*437
			Approximately 258' Upstream of Sweet Road Part 2 .....	*445	*441
Maps available for inspection at the Municipal Building, Fayetteville, New York. Send Comments to Honorable James H. Lannon, Mayor of the Village of Fayetteville, 425 East Genesee Street, Fayetteville, New York 13066.					
New York .....	Manlius, Town, Onondaga County.	Chittenango Creek .....	Downstream corporate limits .....	(?)	*392
			Approximately 200' upstream of Interstate 90 east-bound lane .....	(?)	*401
			Upstream of Kirkville Road .....	(?)	*404
			Approximately 760' upstream of upstream corporate limits .....	(?)	*408
			At Confluence with Chittenango Creek .....	(?)	*398
		Limestone Creek .....	Approximately 200' upstream of confluence with Chittenango Creek .....	*395	*398
			Upstream State Route 115/North .....	*397	*398
			At downstream corporate limits of Village of Fayetteville .....	*431	*432
			At upstream corporate limits of Village of Fayetteville .....	*457	*452
			Approximately 2290' downstream of Dam .....	*468	*467
		Limestone Creek overbank .....	At downstream corporate limits of Village of Fayetteville .....	*431	*432
			Approximately 275' upstream of East Genesee Street .....	*445	*438
Maps available for inspection at the Town Hall, 301 Brooklea Drive, Fayetteville, New York. Send comments to honorable Richard Lowenberg, Town Supervisor of Manlius, 301 Brooklea Drive, Fayetteville, New York 13066.					
Ohio .....	Unincorporated Areas of Clermont County.	O'Bannon Creek .....	At County Boundary .....	(?)	*604
			About 0.8 mile upstream of State Route 132 .....	(?)	*812
		Right Bank Tributary to O'Bannon Creek .....	At mouth .....	(?)	*774
			Just upstream of County Road .....	(?)	*806
		East Fork Little Miami River .....	About 400 feet downstream of Round Bottom Road .....	*570	*527
			About 2.27 miles upstream of State Route 222 .....	*608	*605
			About 250 feet downstream of State Route 133 .....	*804	*804
			About 2.84 miles upstream of State Route 32 .....	*832	*833



## PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	# Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
		Stonelick Creek .....	At confluence with East Fork Little Miami River .....	*541	*538
			About 1.9 miles upstream of State Route 132 .....	*713	*714
Maps available for inspection at the County Planning Commission, 76 S. Riverside, Batavia, Ohio.					
Send comments to Honorable Dale S. Romohr, Chairman of the Board of Commissioners, 76 S. Riverside, Batavia, Ohio 45103.					
Rhode Island .....	Newport City, Newport County .....	Narragansett Bay .....	Newport Harbor shoreline .....	*15	*14
			Bridge Street .....	*15	*12
			Lucas Avenue .....	*15	*12
Maps available for inspection at Newport City Hall, 43 Broadway, Newport, Rhode Island.					
Send comments to the Honorable John E. Connors, Jr., City Manager of Newport, City Hall, 43 Broadway, Newport, Rhode Island 02840.					
Tennessee .....	City of Memphis, Shelby County .....	Fletcher Creek .....	Just upstream of New Macon Road .....	*252	*252
			Just downstream of Whitten Road .....	*264	*260
		Fletcher Creek Lateral B. ....	At Mouth .....	*260	*257
			Just downstream of Raleigh LaGrange Road .....	*260	*260
		Tennile Creek .....	About 480 feet upstream of Winchester Road .....	*281	*281
			Just downstream of Raines Road .....	*305	*308
			About 0.87 miles upstream of Pilot Drive .....	*326	*324
Maps available for inspection at the Memphis and Shelby County Office of Planning and Development, City Hall, 125 North Main Street, Memphis, Tennessee 38103.					
Send comments to the Honorable Richard C. Hackett, Mayor, City of Memphis, City Hall, 125 North Main Street, Memphis, Tennessee 38103.					
Texas .....	Point Comfort, City, Calhoun County .....	Lavaca Bay .....	Shoreline at Austin Street (extended) .....	*18	*12
			Shoreline at most southern corporate limits .....	*18	*15
Maps available for inspection at City Hall, 108 Jones, Point Comfort, Texas.					
Send comments to Honorable Trinidad Rocha, Mayor of the City of Point Comfort, P.O. Box 399, Point Comfort, Texas 77978.					
Vermont .....	Orleans, Village, Orleans County .....	Barton River .....	Approximately 200' upstream of Maple Street .....	*705	*704
			Approximately 400' downstream of State Route 58 bridge .....	*720	*721
			Approximately 300' downstream of State Route 58 .....	*731	*730
			Upstream of State Route 58 bridge .....	*739	*738
			Downstream of footbridge located downstream of 2 crossovers to Ethan Allen plant .....	*741	*740
Maps available for inspection at the Orleans Village Office, Memorial Square, Orleans, Vermont.					
Send comments to Honorable Edwin Gage, Trustee for the Village of Orleans, Village Office, Memorial Square, Orleans, Vermont.					
Virgin Islands Commonwealth .....	Atlantic Ocean (St. Thomas) .....		Shoreline at Coki Point .....	(*)	*5
Maps available for inspection at the Disaster Program Office, 2nd Floor, 7A Crystal Gad, St. Thomas, Virgin Islands.					
Send comments to Honorable Julio Brady, Lieutenant Governor of St. Thomas, Government House, P.O. Box 450, St. Thomas, Virgin Islands 00801.					
Virginia .....	Accomack County .....	Chesapeake Bay .....	North end of Pintail and Canvasback Lanes .....	*10	*7
			Intersection of Canvasback Lane and Black Mallard Way .....	*8	*7
Maps available for inspection at the Department of Public Works, County Administration Building, Route 764, Accomack, Virginia.					
Send comments to Honorable Joseph DeMarino, Country Director of Public Works, P.O. Box 388, Accomack, Virginia 23301.					
Wisconsin .....	Village of DeForest, Dane County .....	Yahara River .....	Just downstream of South Road .....	*925	*925
			Just upstream of Chicago, Milwaukee, St. Paul, and Pacific Railroad .....	*932	*933
			Just upstream of North Street .....	*933	*934
			About 4,100 feet upstream of North Street .....	*935	*935
Maps available for inspection at 113 South Durkee Street, P.O. Box 515, DeForest, Wisconsin.					
Sent comments to Honorable Clifford A. Bass, Village Administrator, Village of DeForest, 113 South Durkee Street, P.O. Box 515, DeForest, Wisconsin 53532.					

1 Not previously shown.

2 None.

3 Zone A.

4 Zone B.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective Jan. 28, 1969 [33 FR 17804, Nov. 28, 1968], as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Administrator)  
Issued: November 5, 1984.

Jeffrey S. Bragg,  
Administrator, Federal Insurance  
Administration.

[FR Doc. 84-29872 Filed 11-14-84; 8:45 am]

BILLING CODE 6718-03-M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MM Docket No. 84-266; RM-4619]

### FM Broadcast Station in Kahului and Wailuku, HI; Dismissal of Proposal

AGENCY: Federal Communications Commission.

**ACTION:** Proposed rule. Dismissal of proposal.

**SUMMARY:** Action taken herein dismisses the petition for rule making filed by Charles Joseph Thompson to assign FM Channel 294, to either Kahului or Wailuku, Hawaii, for failure to file comments reaffirming his intention to apply for the channel, if assigned. (MM Docket No. 84-266, RM-4619).



**ADDRESS:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:**  
D. David Weston, Mass Media Bureau  
(202) 634-6530.

**SUPPLEMENTARY INFORMATION:**

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

**Report and Order (Proceeding Terminated)**

In the matter of amendment of § 73.202(b) table of assignments, FM broadcast stations (Kahului and Wailuku, Hawaii); MM Docket No. 84-266, RM-4619.

Adopted: October 29, 1984.

Released: November 8, 1984.

By the Chief, Policy and Rules Division.

1. Before the Commission for consideration is the *Notice of Proposed Rule Making*, 49 FR 10313, published March 20, 1984, proposing the assignment of FM Channel 294 to either Kahului as that community's first FM allocation or to Wailuku, as that community's second FM allocation. The *Notice* was adopted in response to a petition filed by Charles Joseph Thompson ("petitioner"). Petitioner failed to file comments reaffirming his intention to apply for the channel, if assigned, and no other comments on the proposal were received.

2. As stated in the *Notice*, a showing of continuing interest is required before a channel will be assigned. Therefore, in accordance with Commission policy, no further consideration will be given to the assignment of FM Channel 294 to either Kahului or Wailuku, Hawaii.

3. It is ordered, That the petition of Charles Joseph Thompson is dismissed and this proceeding is hereby terminated.

4. For further information concerning the above, contact D. David Weston, Mass Media Bureau, (202) 634-6530.  
(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

**Charles Schott,**  
Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-29917 Filed 11-14-84; 8:45 am]

**BILLING CODE 6712-01-M**

**DEPARTMENT OF THE INTERIOR**

**Bureau of Indian Affairs**

**48 CFR Part 1480**

**Buy Indian Act; Procedures for Contracting With Indians Pursuant to the Act of June 25, 1910**

November 8, 1984.

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** The Bureau of Indian Affairs is publishing proposed rules which govern the implementation of Pub. L. 61-313, often referred to as the Buy Indian Act. These rules support the policy, procedures, and processes of the Bureau of Indian Affairs in its procurement relationships with eligible and certified Indian/Alaska Native economic enterprises for the purchase of the products of Indian industry.

**DATE:** Written comments must be received no later than December 15, 1984.

**ADDRESS:** Written comments may be directed to U.S. Department of the Interior, Bureau of Indian Affairs, Chief, Contracting and Grants Administration Staff, 1951 Constitution Avenue, N.W., Washington, D.C. 20245. The envelope front should bear the legend, "Buy Indian Act Comments", in the lower left corner.

**FOR FURTHER INFORMATION CONTACT:**  
Dr. Peter A. Campanelli, Contracting and Grants Administration Staff, Bureau of Indian Affairs, 1951 Constitution Avenue, N.W., Washington, D.C. 20245, telephone number (202) 343-5125.

**SUPPLEMENTARY INFORMATION:** This notice is published in the exercise of rulemaking authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8. The authority to issue regulations is vested in the Secretary of the Interior by 5 U.S.C. 301. The authorizing statute is Pub. L. 61-313 (25 U.S.C. 47).

Beginning on page 44678 of the October 8, 1982, *Federal Register* (47 FR 44678), a notice of proposed rulemaking was published to add a new Part 14H-71 to Subchapter 14H of Title 41 of the Code of Federal Regulations.

The public was given until January 6, 1983, to submit written comments, suggestions, or objections regarding the proposed rule. All comments received with respect to the proposed rule were given due study and consideration.

**I. Changes Made Due to Editorial Review**

An analysis of the rules material by the writers subsequent to publication of the proposed rules raised concerns with the format, style, content and text position. Therefore, the writers decided to reposition the text to delineate better the roles of the Bureau and of the offerors under the Act. This approach seemed to lend itself to a logical presentation of policy and procedures, while clarifying the contributions of both parties to the Act contract.

In addition to repositioning the text, the writers made significant changes to the rule contents in an attempt to: (1) strengthen the certification process for protection of the legitimate Indian/Alaska Native economic enterprise; (2) curtail the opportunities for potential fraud and abuse by ineligible economic enterprises; and (3) define Bureau procedures more clearly in the award process.

Therefore, the writers reviewed and accepted/rejected public comments submitted to the Bureau for the proposed rules that initially appeared on October 8, 1982. These proposed rules are offered for public comment and incorporate the accepted public comments submitted in response to the earlier notice for proposed rulemaking, as well as the significant editorial changes cited above.

Finally, the Federal Acquisition Regulation (FAR) was published in the *Federal Register* (Vol. 48, No. 182) on September 19, 1983, becoming effective on April 1, 1984. The FAR establishes a single (and primary) regulation for use by all Executive agencies in their procurement of supplies and services with appropriated funds. Thus, the FAR replaces the Federal Procurement Regulations (FPR), the latter reflecting rules and regulations for civilian agencies. With this FAR enactment, the Department of the Interior assigned Part 1480 of the new Title 48 of the Code of Federal Regulations to the Bureau of Indian Affairs acquisition management system. Thus, 48 CFR Part 1480 presents the proposed Buy Indian Act regulations previously referenced under the proposed 41 CFR 14H-71.

**II. Changes Made Due to Comments Received**

As a result of comments received for the proposed rules published on October 8, 1982, the following changes in these proposed regulations are made in addition to language changes for clarification:



(1) One comment requested inclusion of the term "Pueblo lands" in the definition of "Reservation", the point being that the former were not "reserved" in the same legal sense as other Indian lands. This change was made in § 1480.102.

(2) One comment pointed out that proposed § 14H-71.202(a)(3) was not consistent with the practice of limiting solicitation responses to Indian offerors. If so, a comparison could not be made to "non-Indian offerors". This phrase was changed to maintain procedural consistency in § 1480.105.

(3) To establish uniform qualification requirements, these proposed rules include Bureauwide use of a Qualification Questionnaire for Certification by eligible offerors; the issuance of a National Roster of Certified Indian/Alaska Native Economic Enterprises by the Bureau Central Office; and, the Bureauwide acceptance of the certification approval that is provided by a Level IV warranted Contracting Officer.

(4) Several comments were received on the definition of "100% Indian/Alaska Native Owned-or-Controlled". These proposed rules have deleted the term and address the issue under the new terms "Indian/Alaska Native Economic Enterprise", and "Owned-and-Controlled", in § 1480.102.

(5) One comment requested an implementation clause of preferred award of subcontracts. This provision has been stated in § 1480.403 to require a plan for approval by the Contracting Officer as required by provisions of 48 CFR 1404.70 and § 1452.202-72.

(6) The term "Indian Tribes" has been included in the definition of "Indian/Alaska Native Economic Enterprise" to indicate that Tribal government enterprises may become certified offerors under the Act. This is found in § 1480.102.

(7) Additional language was included under § 1480.207 on "Subsequent Involvement of Certified Offeror" to clarify the procedure when an eligible offeror makes its presence known after an unrestricted solicitation has been issued.

(8) A suggestion was made to require an appropriate and responsive subcontracting plan when an award is made to a non-Indian firm. Indian preference requirements for employment, training, subcontracting and subgrants are addressed in other Bureau publications and are mandated by Section 7(b) of Pub. L. 93-638 (25 U.S.C. 450 *et seq.*). For purposes of awards under the Buy Indian Act, § 1480.403 has been added to these proposed rules.

### III. Comments Not Adopted

Certain other comments have been considered but have not been accepted. The following suggestions were not adopted for the reasons given:

(1) Several comments recommended a less-than-100% Indian/Alaska Native ownership of the economic enterprise. A policy decision by the Assistant Secretary—Indian Affairs has maintained the Bureau's position that the economic enterprise shall be owned in its entirety by Indian/Alaska Native(s) person(s).

(2) Some confusion was expressed regarding the term "owned-and-controlled". Bureau policy is continued for ownership in its entirety of the economic enterprise. The authority for and exercise of policy-making implies ownership and control of the economic enterprise. This point is addressed in § 1480.102.

(3) One comment recommended that Bureau solicitations be sent to all known Indian/Alaska Native companies. Rather, notice of proposed Bureau acquisitions in excess of \$10 thousand (with specified exceptions) will be published in the Commerce Business Daily and solicitations will also be sent to appropriate and certified economic enterprises comprising the National Roster of Certified Indian/Alaska Native Economic Enterprises.

(4) The Bureau includes language for an administrative complaint herein to guide the disapproved applicant for certification as well as the reviewing Bureau official. It is not considered appropriate to delete this item and it may be found in §§ 1480.203(f) and .205(c).

### IV. Specific Comment Applying to All Parts

The proposed regulations of October 8, 1982 contained the restriction imposed on the Bureau of Indian Affairs by the U.S. Supreme Court decision in *Andrus v. Glover Construction Co.* (Supreme Court No. 79-48, May 27, 1980). This restriction prohibited the use of the Act authority to contract with Indian/Alaska Native economic enterprises for any type of road construction, repair of buildings, roads, sidewalks, sewers, mains or similar items.

In addition, the Surface Transportation Assistance Act of 1982 (Pub. L. 97-424, 96 Stat. 2097) enacted on January 6, 1983 allows the Secretary of the Interior to apply the provisions of the Buy Indian Act (Pub. L. 61-313) and the provisions of section 7(b) of the Indian Self-Determination and Education Assistance Act of 1975 (Pub. L. 93-638, 88 Stat. 2205) to all funds

administered by the Secretary which are appropriated for the construction and improvement of Indian reservation roads.

Subsequent to the publication of the proposed regulations in the *Federal Register* on October 8, 1982, and the enactment of the Surface Transportation Assistance Act, and prior to this proposed rule, a judicial amendment of injunction pursuant to § 114(b) of Pub. L. 97-424 of January 6, 1983, altered the substance of the rules with respect to the Supreme Court decision in *Andrus v. Glover Construction Company*. Essentially, the U.S. District Court for the Eastern District (U.S.D.C.E.D.) of Oklahoma decree of April 6, 1983, lifted the injunction of this court on May 12, 1978, and vacated the injunction on all Indian reservation road construction (as defined in 23 U.S.C. 101), except within the State of Oklahoma. However, the restriction on the use of Act authority for other construction still remains in effect Bureauwide. This stipulation is found in § 1480.401.

The information collection requirements contained in Sections 1480.302 and .403 regarding compliance with section 7(b) of Pub. L. 93-638 (25 U.S.C. 452) have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1084-0019. Also, the information collection requirements contained in Section 1480.301 for the Solicitation Mailing List Application (SF-129) has the clearance number 3090-0009. The collection requirement covered by the Qualification Questionnaire is under review for approval by the Office of Management and Budget. Comments addressing these information collection requirements should be submitted to the Office of Management and Budget, 726 Jackson Place, N.W., Washington, D.C. 20504, attention: Interior Desk Officer; and, to the Department of the Interior at the address given above.

The policy of the Department of the Interior is, whenever practical, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed regulations.

The Department of the Interior has determined that this document is not a major rule under the criteria established by Executive Order 12291 and does not have a significant economic effect on a substantial number of small entities under the criteria established by the Regulatory Flexibility Act. Currently, Indian/Alaska Native economic enterprises apply to the cognizant



Bureau Contract Office to participate under the Act authority. If deemed eligible, said enterprise may respond to and be considered for Bureau solicitation and contracts. These proposed rules serve to formalize an application and certification procedure for all Bureau procurement activities/locations to be applied uniformly to all economic enterprises seeking to participate under the Act authority. There is no change in the Bureau policy of assessing eligibility of Indian/Alaska Native economic enterprises. The authors of this document are Donald F. Asbra and Dr. Peter A. Campanelli, Contracting and Grants Administration Staff, Bureau of Indian Affairs, United States Department of the Interior, Washington, D.C. 20245, telephone number (202) 343-5125.

#### List of Subjects in 48 CFR Part 1480

Indian/Alaska Native economic enterprises, Federal procurement.

A new Part 1480 is proposed to be added to Title 48 of the Code of Federal Regulations to read as follows:

### PART 1480—BUY INDIAN ACT; PROCEDURES FOR CONTRACTING WITH INDIANS PURSUANT TO THE ACT OF JUNE 25, 1910

#### Subpart 1480.1—General Provisions

Sec.

- 1480.101 Purpose, Scope and Information Collection.
- 1480.102 Definitions.
- 1480.103 Statement of Policy.
- 1480.104 Conformity to Federal Acquisition Regulation.
- 1480.105 Exceptions by Assistant Secretary—Indian Affairs.

#### Subpart 1480.2—Bureau Procedures

- 1480.201 Use of Act Authority and Regulations.
- 1480.202 Small Purchase Procedures.
- 1480.203 General Requirements.
- 1480.204 Certification Process.
- 1480.205 Receipt of Application.
- 1480.206 Economic Enterprises Certified Prior to Adoption of These Rules.
- 1480.207 Subsequent Involvement of Certificate Offeror.
- 1480.208 Architect-Engineer Services.

#### Subpart 1480.3—Economic Enterprise Procedures

- 1480.301 Eligible Offerors/Contractors.
- 1480.302 Additional Information Required from Economic Enterprises for Response to Bureau Solicitation.
- 1480.303 Breach of Contract.

#### Subpart 1480.4—Limitations

- 1480.401 Construction.
- 1480.402 Subcontracting.
- 1480.403 Indian/Alaska Native Preference.

#### Subpart 1480.5—Clauses and Notices

Sec.

- 1480.501 Notice of Restriction and Certified Offeror's Response.
- 1480.502 Subcontracting.

Authority: 25 U.S.C. 47, 36 Stat. 891.

#### Subpart 1480.1—General Provisions

##### § 1480.101 Purpose, Scope and Information Collection.

(a) The regulations in this part provide the policies and procedures for entering into and awarding contracts and purchase orders to certified Indian/Alaska Native economic enterprises by the Bureau of Indian Affairs pursuant to the authority of the Act of June 25, 1910 (Pub. L. 61-313, and referred to as "the Act" or "the Buy Indian Act" throughout this part) and codified as 25 U.S.C. 47 and this part.

(b) The Act provides discretionary authority to the Secretary of the Interior to acquire by purchase the products of Indian industry. This authority is exercised by the Bureau of Indian Affairs on a preferential basis. The Bureau of Indian Affairs may negotiate contracts and purchase orders with certified Indian/Alaska Native economic enterprises to the exclusion of non-Indian offerors pursuant to the authority of section 302(c) (10) and (15) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252(c) (10) and (15)). This latter authority provides that contracts may be negotiated without formal advertising "if otherwise authorized by law"; in this instance, the authorization to do so is provided under the Act of June 25, 1910. The Surface Transportation Assistance Act of 1982 (Pub. L. 97-424, 96 Stat. 2097), as interpreted by the U.S. District Court for the Eastern District of Oklahoma by decree of April 6, 1983, vacating an injunction against using the Buy Indian Act, is authority also for road construction procurements.

(c) The provisions of this part apply to all acquisitions (purchase orders or contracts) entered into by the Bureau of Indian Affairs with certified Indian/Alaska Native economic enterprises pursuant to the Act and its regulations. However, the Assistant Secretary may authorize exceptions, as noted in § 1480.105 of this part.

(d) Information Collection Requirement: (Reserved.)

##### § 1480.102 Definitions.

As used in this part,

"Assistant Secretary" means the Assistant Secretary—Indian Affairs, Department of the Interior.

"Bureau" means the Bureau of Indian Affairs, Department of the Interior.

"Buy Indian Act" means the provisions and authority of the Act of June 25, 1910 (Pub. L. 61-313, 25 U.S.C. 47) and is also referred to as the Act in this part.

"Buy Indian Contract" means any Bureau acquisition (by contract or purchase order) of the product of Indian/Alaska Native industry from a certified Indian/Alaska Native economic enterprise pursuant to the authority of the Act and this part.

"Certified" means the Bureau designation of an Indian/Alaska Native economic enterprise to be included for preferential participation under the Act authority. The certification process includes the submitting of a Standard Form 129 (Solicitation Mailing List Application) and a completed Qualification Questionnaire for Certification to the Bureau by an eligible and interested economic enterprise; meeting the definition requirement for "Indian"; and, satisfying the criterion for ownership-and-control of the economic enterprise.

"Contracting Officer" means an official designated in accordance with 48 CFR Subpart 2.1 with the authority to enter into, administer and/or terminate contracts, and make related Determination and Findings.

"Day" means calendar day.

"Dealer (regular)" means a person who owns, operates or maintains a store, warehouse, or other establishment in which the commodities being supplied are bought, kept in stock, and sold to the public in the usual course of business.

"Indian" means any person or Indian descent who is an enrolled member of an Indian Tribe, as defined herein; or, who is a descendant of one-fourth degree or more Indian blood of an enrolled member of a tribe where rolls have been closed by Act of Congress; or, any Alaska Native of one-fourth degree or more Alaska, Indian, Eskimo, or Aleut blood; or, any member of a Federally recognized tribe; and all persons of one-half degree or more Indian blood.

"Indian/Alaska Native Economic Enterprise" means any profit or nonprofit, commercial, industrial, agricultural, or other lawful business activity that is owned and controlled in its entirety by Indian/Alaska Native(s) or an Indian Tribe.

"Indian Tribe" means any Indian Tribe, Band, Nation, Rancheria, Pueblo, Colony, or other organized group or community, including any Alaska Native village, which is recognized by the Secretary of the Interior as having special rights and is recognized as eligible for the services provided by the



United States to Indians because of their status as Indians.

"Owned-and-Controlled" means an Indian/Alaska Native economic enterprise (as defined in this section) which is 100% owned by (an) Indian/Alaska Native person(s). In the case of corporations, all capital stock must be owned by (an) Indian/Alaska Native person(s) and the capital stock issued must represent the substantive evidence of ownership, as determined by the Contracting Officer. In the case of partnerships, all partners must be (an) Indian/Alaska Native person(s). "Controlled" means that (an) Indian/Alaska Native person(s) direct(s) the policy, management and operation of the economic enterprise; hold(s) the key management position(s); and, participate(s) in the economic enterprise on substantially a full-time basis. Exceptions to the "control" requirement may be authorized for tribal government enterprises. To obtain and maintain Bureau certification, an applicant shall meet the "owned-and-controlled" requirement. This requirement shall exist during contract performance if an award is made to the certified economic enterprise.

"Products of Indian/Alaska Native Industry" means any products, goods, supplies or services that can be provided by a certified economic enterprise that either produces them through its own labor, skills or effort, or is a regular dealer in such goods or services.

"Reservation" means any bounded geographical area (including Pueblo lands, former reservations in Oklahoma, Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act, and Indian allotments) established or created by treaty/statute, Executive Order, or as interpreted by court decision and over which an Indian Tribe may exercise jurisdiction.

"Secretary" means the Secretary of the Interior.

"Small Purchase" means an acquisition of supplies, nonpersonal services, and road construction (except in the State of Oklahoma) using the Act authority in the amount of \$25,000 or less using the procedures prescribed in this part and as governed by Parts 13 and 15 of this title.

"Tribal Governing Body" means the recognized entity empowered to exercise the governmental authority of a tribe, as defined herein.

#### § 1480.103 Statement of Policy.

(a) The Secretary exercises discretionary authority under the Act to acquire by purchase the products of Indian/Alaska Native industry.

(b) The Bureau uses the authority of this Act to the maximum extent practicable to acquire supplies, goods, and services solely from Indian offerors.

(c) The authority of this Act and this part apply to those Bureau acquisitions (small purchase orders or contracts) entered into with certified Indian/Alaska Native economic enterprises.

(d) The authority of this Act and its regulations shall not be used to award self-determination contracts to Tribal organizations (as the term is defined in 25 CFR Part 271) to plan, operate, administer, or manage those Bureau programs or parts thereof that are within the scope of the Indian Self-Determination and Education Assistance Act (25 CFR Parts 271, 272, and 274; and 48 CFR Part 1481), as now or hereafter determined by the Assistant Secretary. However, this Act may be used to cover parts of programs which a Tribe does not wish to contract for and are subject to the provisions of OMB Circular A-76.

(1) Current Buy Indian Act contracts with such Tribal organizations for self-determination activities shall be reviewed. When appropriate, renewal action shall be taken under the authority of Pub. L. 93-638 and its regulations.

(2) Short-term projects related to Tribal government and its business-related functions may continue to be carried out using the award authority of the Buy Indian Act, if so requested by the Tribal governing body.

(e) Bureau personnel shall exercise the authority of the Act and its regulations for all acquisitions governing the procurement of services, goods, and supplies from certified Indian/Alaska Native economic enterprises in meeting Bureau needs and requirements. This requirement applies to all Bureau acquisition actions, regardless of dollar amount, subject to the limitation expressed in § 1480.103(d) and the factors cited in § 1480.201(b).

#### § 1480.104 Conformity to Federal Acquisition Regulation.

(a) Purchase orders and contracts entered into by the Bureau pursuant to the Act shall comply with all applicable requirements of the Federal Acquisition Regulation (48 CFR Chapter 1), all provisions of the Interior Acquisition Regulation System (48 CFR Parts 1400-1499), and the governing directives of the Bureau.

(b) After compliance with the provisions of Part 8 of 48 CFR regarding sources of procurement, Bureau Contracting Officers shall determine whether to exercise the authority either under the Act, or under section 8(a) of the Small Business Act, as amended. If it

is determined that Act authority will not be used, the exercise of the Small Business 8(a) program authority shall be considered. In addition, the procedures for the purchase/lease of printing equipment and printing work are restricted and governed under Subpart 8.8 of 48 CFR.

(c) Bureau procurement under the Act authority, while limited to certified Indian/Alaska Native economic enterprises, are subject to the rules and related procedures that govern all Federal contracts. That is, once the Bureau decision is made to use the Act authority to purchase supplies or services, the acquisition process that follows shall not be substantively or procedurally different than when dealing with the business community at large. Bureau officials shall adhere to Federal, Interior, and Bureau acquisition regulations and guidelines governing contract planning, advertising, negotiating, pricing, awarding, administering, modifying, terminating, and closing components.

(d) Two basic principles shall be considered by the Contracting Officer:

(1) The Bureau procurement award shall benefit a responsible certified Indian/Alaska Native economic enterprise; and,

(2) A fair and reasonable price shall be assured.

(i) The thorough review of the Qualification Questionnaire for Certification form by a Level IV warranted Contracting Officer shall determine that an economic enterprise fulfills the criteria of these rules; and

(ii) With regard to assurance of a fair and reasonable price, the following steps (as a minimum) are required (as applicable) for contracts entered into under the Act:

(A) Written justification by the Contracting Officer when awarding a noncompetitive (single source) contract;

(B) Properly prepared Bureau cost estimates, including support documentation;

(C) Price analysis; and

(D) Price negotiations, including a written record of the negotiations for the contract file.

(e) When there is more than one certified Indian/Alaska Native economic enterprise interested in a procurement action, and if the requirement is such that the formally advertised method of procurement would be used were the procurement not under the Act, the Contracting Officer shall use the formally advertised method of procurement set forth in Part 14 of this title, restricting competition to certified offerors. The contract shall



then be awarded to the responsible certified contractor submitting the lowest responsive, responsible offer, unless it is determined in accordance with § 14.407-2 and § 15.214 of 48 CFR that such an offer is not reasonable as to price. In such circumstances, the Contracting Officer will notify each responsible certified offeror (which submitted a responsive offer) of the Bureau's intent to negotiate, following the procedures outlined in § 15.214 of 48 CFR.

(f) If the requirement is such that the use of the formally advertised method of procurement is not feasible, the Contracting Officer shall follow the negotiated method of procurement set forth in Part 15 of this title. The competition shall be limited to certified offerors. However, when the proposals received are not technically acceptable and have no reasonable chance of being made so; or, if negotiations with those offerors in the competitive range fail to produce a proposal that is reasonable as to price, the Contracting Officer may terminate negotiations with the certified offerors. The Request for Proposal (RFP) may then be reissued on an unrestricted basis.

#### § 1480.105 Exceptions by Assistant Secretary—Indian Affairs.

(a) The Assistant Secretary may authorize individual or class exceptions to the preference authorizations of the Act in meeting Bureau acquisition requirements. Exceptions to the use of the Act's authority include, but are not limited to, the following conditions:

(1) Reasonable quantity, delivery, or other performance schedules cannot be met by a certified economic enterprise; or

(2) The technical quality of the specific goods or services required to meet the end-use of the Bureau activity is not available from a certified economic enterprise; or

(3) The contract price to the Bureau from a certified economic enterprise is considered unreasonable when compared to bureau experience and judgment relative to current market prices; or

(4) Where trade-in considerations make prices from a certified economic enterprise unreasonable; or

(5) An eligible and certified Indian/Alaska Native economic enterprise is not interested, available, or responsible in fulfilling the Bureau's procurement need; or

(6) A management determination is made by the Assistant Secretary to adhere to normal procurement procedures when it is considered in the

best interest of the Bureau to do so, regardless of the contract amount.

(b) Under the above circumstances, the Contracting Officer shall prepare a written Determination and Findings that:

(1) There are no interested, eligible, certified, and responsible Indian/Alaska Native economic enterprises available for meeting the acquisition requirements; or

(2) A fair and reasonable price or other acceptable contract terms/provisions cannot be negotiated under the Act; or

(3) A management determination has been exercised by the Assistant Secretary to adhere to normal procurement procedures.

(c) The written Determination and Findings by the Contracting Officer shall be made a part of the contract file. The Assistant Secretary—Indian Affairs shall review/approve each Determination and Findings for a decision on an exception basis for proposed procurement actions in excess of \$100,000 except for actions under paragraph (a)(6) above. Normal procurement procedures with non-Indian offerors shall not be taken by the Contracting Officer pending issuance and receipt of a written exception from the Assistant Secretary for proposed action exceeding the threshold dollar amount.

#### Subpart 1480.2—Bureau Procedures

##### § 1480.201 Use of Act Authority and Regulations.

(a) The Bureau shall exercise the authority of the Act and this part in meeting Bureau needs and requirements for the procurement of goods, services and supplies in support of its mission and program activities and as a means of promoting economic development and employment for Indian/Alaska Native persons.

(b) The regulations (under § 1480.102, Indian/Alaska Native Economic Enterprises) authorize Indian Tribes as eligible entities that may be certified under the Act to meet Bureau needs and procurement requirements for supplies, goods and services unrelated to contract awards made under Pub. L. 93-638. Contracting Officers shall exercise special care and attention to maintain this distinction between the intent and use of the two award authorities.

##### § 1480.202 Small Purchase Procedures.

Whenever the conditions set forth in Part 13 and Part 15 of this title are met, the simplified method of procurement (small purchase) shall be used. The Contracting Officer shall follow the

procedures described in Part 13 of this title.

##### § 1480.203 General Requirements.

(a) All proposed Bureau acquisition actions (as excepted in Subpart 5.202 of this title and in § 1480.103(d) of this Part) in excess of \$10,000 shall be published by the Contracting Officer as a Synopsis in the U.S. Department of Commerce publication, the Commerce Business Daily, in accordance with 48 CFR Part 5. In addition to the other requirements of a Synopsis, it shall contain the notice cited in § 1480.501(b). When appropriate, the Contracting Officer shall also publish a "Sources Sought" notice in the Commerce Business Daily (as outlined in 48 CFR 5.201 and 5.203).

(b) The Bureau Central Office shall develop, maintain, and periodically distribute a National Roster of Certified Indian/Alaska Native Economic Enterprises. The information for this Roster shall be compiled from applications by eligible offerors on the Solicitation Mailing List Application (SF-129) and on the Qualification Questionnaire for Certification form. The responses shall be reviewed by a Level IV Contracting Officer who shall approve/disapprove the economic enterprise as to certification to participate under the Act authority. When the enterprise is certified by one Bureau Contracting Officer, it shall be reported accordingly to the Bureau Central Office for inclusion in the National Roster, thereby denoting Bureauwide certification as a potential offeror under the Act.

(c) The Bureau shall give preference to Indian/Alaska Native economic enterprises that have submitted a completed SF-129 and Qualification Questionnaire for Certification form to a contracting activity/location and which have been certified by a Contracting Officer as such prior to award for consideration under the Act and this Part.

(d) Review and approval/disapproval of the SF-129 and the certification application is restricted to those personnel certified as a Level IV warranted Contracting Officer (48 CFR 1401.6).

(e) The SF-129 and the Qualification Questionnaire for Certification form shall be available from all Bureau contracting activities/locations. Indian/Alaska Native economic enterprises are encouraged to submit completed SF-129's and Qualification Questionnaires for Certification at any time to the cognizant Bureau facility serving their geographic locality. The Contracting Officer shall determine whether the



offeror is certifiable to contract under the Act. This determination shall be supported by the completed SF-129 and the Qualification Questionnaire for Certification form which shall be on file at the Bureau contracting activity or submitted with (or prior to) the offeror's response to any Bureau solicitation. The Certificate shall be renewed by the certified enterprise every three years on the anniversary of the original certification date in order to maintain a current certificate. If not so renewed, the listing for the economic enterprise shall be removed as a possible offeror from the National Roster by the Bureau Central Office.

(f) An economic enterprise applying for certification under the Act and this Part which is adversely affected by a decision of the cognizant reviewing Contracting Officer may submit an administrative complaint. The complaint procedure is set forth below and shall be made known in writing to the applicant economic enterprise by the reviewing Contracting Officer.

(1) If an economic enterprise is disapproved for certification under the Act by the Contracting Officer, it may submit a written complaint to the cognizant Contracting Officer with a request for review. This document shall be received ten (10) days following the date of delivery by certified mail (return receipt requested) of the Bureau's written notice of disapproval. The reviewing official shall be the Area Director for an Area Office and the Deputy Assistant Secretary—Indian Affairs (Operations) for a Central Office contracting activity. The reviewing official's decision shall be final for the Bureau.

(2) The reviewing official shall request and acquire all relevant documents and other materials necessary to reach and render an administrative decision within thirty (30) days of receipt of the complaint or its supporting documents, whichever is received last.

(g) Each Bureau contracting activity shall compile and maintain a file of current Solicitation Mailing List Applications of Indian/Alaska Native economic enterprises. The submission of a Solicitation Mailing List Application (or, Architect-Engineer and Related Services Questionnaire and Architect-Engineer and Related Services Questionnaire for Specific Projects) by such an economic enterprise does not remove the requirement for it to submit the completed Qualification Questionnaire for Certification form also required by this Part if it wishes to be reviewed for Bureau certification. The Solicitation Mailing List Application (or, Architect-Engineer and Related Services

Questionnaire and Architect-Engineer and Related Services Questionnaire for Specific Projects, when applicable) shall be included in every applicant request to the Bureau for certification.

(h) When a proposed acquisition (regardless of dollar amount) applies to services to be performed in whole or in part on an Indian reservation or Alaska Native village under a Bureau contract and this Act, written notification should be given to the governing body of that entity. Unless unfeasible, this notice should be provided by the Contracting Officer no less than thirty (30) days before the proposed issuance of a solicitation and state the following:

(1) The Bureau intent to contract under the Act authority if there are Indian/Alaska Native economic enterprises which are interested, certified, responsive and responsible;

(2) A synopsis of the proposed contract; and

(3) If there are not interested, certified, responsive and responsible Indian/Alaska Native economic enterprises available, the Bureau requirement will then be obtained by contract pursuant to normal procurement procedure.

#### § 1480.204 Certification Process.

(a) The award and preference authority of the Act are used to meet Bureau organizational needs, assist and strengthen the development of Indian/Alaska Native economic enterprises, and enhance their economic self-sufficiency. To achieve these ends, Bureau policy requires certification of eligible offerors whereby adequate proof is provided by the applicant enterprise that it is a legitimate entity to receive awards under the Act.

(1) To be "eligible", the economic enterprise shall meet the definition of Indian/Alaska Native Economic Enterprise in § 1480.102.

(2) To be "qualified" means the eligible economic enterprise has submitted the completed SF-129 and the Qualification Questionnaire and Certification form with required documentation to the Bureau Contracting Officer for review; has received approval as a certified enterprise; is responsible and capable of performing; and, its designation as such appears [or shall appear within ten (10) days of award] on the Bureau's National Roster of Certified Indian/Alaska Native Economic Enterprises.

(b) Bureau approval for certification is provided by a Level IV warranted Contracting Officer (48 CFR 1401.6) or by a reviewing official on appeal; the designation is recognized Bureauwide; and, the certificate is in effect for a three year period unless: (1) Voluntarily

surrendered; (2) revoked by the Bureau for cause; (3) the circumstances of the economic enterprise change so that it is no longer eligible or certified; or (4) the original Bureau certification was found to be in error. The option and actions to renew the certificate at the end of a three year period rest entirely with the certified economic enterprise.

(c) The purposes of the certification process are to bring about the use and support of eligible Indian/Alaska Native economic enterprises and to prevent circumvention or abuse of the Act which is detrimental to the legitimate Indian/Alaska Native economic enterprise and contrary to the intent of the Congress. The Bureau Contracting Officer who reviews an applicant's SF-129 and Qualification Questionnaire for Certification form (or, the reviewing official on appeal) shall carefully review and analyze the application to rule out the possibility of fraudulent practice by a non-eligible enterprise. Also, applications from economic enterprises that reflect complex organizational structures should be reviewed by the Office of the Solicitor.

#### § 1480.205 Receipt of Application.

(a) The completed application shall be submitted to the reviewing Contracting Officer at the Bureau facility serving the geographic area of the applicant. The Contracting Officer shall formally log the application. Within five (5) days of receipts, the Contracting Officer shall notify the economic enterprise in writing that the application for certification was received, and is under review for certification. Subsequently, if additional information is required for the review, it shall be requested by the Contracting Officer in writing and the twenty (20) day period (see below) shall not take effect until all material has been received.

(b) Within twenty (20) days of receipt of all materials, the Contracting Officer shall notify the economic enterprise in writing that the application for certification has been approved/disapproved. If approved, the applicant's certificate status shall be forwarded to the Bureau Central Office for inclusion in the National Roster of Certified Indian/Alaska Native Economic Enterprise. The certification approval is to be honored by all Bureau contracting activities. A copy of this updated National Roster shall be provided periodically to all Bureau contracting activities by the Bureau Central Office.

(c) If the application for certification is disapproved by the Contracting Officer, the notification of this action shall also



make known the applicant's option of administrative complaint as set forth in § 1480.203(f).

#### § 1480.206 Economic Enterprises Certified Prior to Adoption of These Rules.

(a) Indian/Alaska Native economic enterprises holding current Bureau certification on the effective date of this rule shall be notified in writing within thirty (30) days by the cognizant Contracting Officer to submit an updated application to the nearest Bureau Office if it wishes to continue as a certified enterprise. A copy of the pertinent sections of these regulations may be included as part of the Bureau's written notification.

(b) This updated submission by the economic enterprise shall be made to the Bureau within thirty (30) days of the notification date by the Contracting Officer. The certification procedure shall then proceed as stated in this Part. If no updated submission is made within the specified time period, the name of the economic enterprise shall be removed from the National Roster until just time as a new application is received and approved.

#### § 1480.207 Subsequent Involvement of Certified Offeror.

(a) In the event an interested and certified Indian/Alaska Native economic enterprise is identified after an unrestricted or open-market solicitation has been issued but prior to date of an award, the Contracting Officer shall provide a copy of the solicitation to such enterprise even though bids, quotations or proposals have been solicited from non-Indian offerors. In such cases, preference under the Act will not be made available to the certified economic enterprise.

(b) Under the above conditions, the Contracting Officer shall determine whether the date for Bureau receipt of bids or proposals shall be extended.

#### § 1480.208 Architect-Engineer Services.

When the Bureau procurement requirement for Architect-Engineer Service is restricted to certified offerors pursuant to the Act authority and this Part, all provisions of 48 CFR Part 36 shall apply.

#### Subpart 1480.3—Economic Enterprise Procedures

##### § 1480.301 Eligible Offerors/Contractors.

(a) Any Indian/Alaska Native economic enterprise that meets the requirements of this Part is considered eligible to apply for certification by a Bureau contracting activity. Certification is based on information furnished by the applicant enterprise to the Bureau

Contracting Officer on the SF-129 and the Qualification Questionnaire for Certification form prior to award of the contract. Interested applicants should submit their completed forms for review at any time to the Bureau contracting activity serving their geographic locale.

(b) The Bureau shall give preference to Indian/Alaska Native economic enterprises which have been certified by a warranted Level IV Contracting Officer for participation under the Act authority and the provisions of this part.

#### § 1480.302 Additional Information Required from Economic Enterprises for Response to Bureau Solicitation.

(a) In response to a specific Bureau solicitation (bid or proposal) for an acquisition under this Part, the economic enterprise shall provide the information required in § 1480.501(c).

#### § 1480.303 Breach of Contract.

(a) Failure on the part of the certified contractor to perform the percentage of the contract work its own forces as specified by the Contracting Officer shall be considered as a breach of the contract and grounds for contract termination for default.

(b) Failure on the part of the certified contractor to maintain the economic enterprise as 100% Indian/Alaska Native owned-and-controlled during the contract term under the Act authority and this Part shall be considered as a breach of the contract and grounds for contract termination for default.

(c) Failure on the part of the certified contractor to implement and maintain an approved preference plan under § 1480.403 shall be considered as a breach of the contract and grounds for contract termination for default.

#### Subpart 1480.4—Limitations

##### § 1480.401 Construction.

The authority of this Act and this Part shall not be used to award construction contracts except for road construction contracts. In the State of Oklahoma, the contract authority may not be used for any type construction, including road construction. Road construction in the State of Oklahoma is not permitted unless and until the present injunction (*Glover Construction Co. v. Watt, et al.*, No. 77-178-C, E.D. Oklahoma, April 6, 1983) is further modified to allow the award of such contracts under the Act.

##### § 1480.402 Subcontracting.

(a) All solicitations as well as all legal instruments awarded for services under this Part shall contain the provision limiting the percentage of the contract work that can be subcontracted. Contracts shall not be awarded wherein

the total dollar amount will be subcontracted.

(b) The minimum percentage of the work that a certified contractor shall be required to perform with its own employees is as follows:

(1) Architect-Engineer and Other Professional Services—30%.

(2) Road Construction—50%.

(3) Other Services—as determined by Contracting Officer prior to contract award, but never less than 30% unless the Contracting Officer requests and receives an exception from the Assistant Secretary—Indian Affairs to specify a lower percentage.

(c) The costs of supplies, materials, and administration to the prime contractor are not to be included in the above calculations.

(d) When determined by the Contracting Officer, Bureau solicitations for other than services may include a provision requiring the awardee to perform a percentage of the contract work with its own employees. With this requirement, consideration shall be given to the nature of the property or kind of supplies to be furnished under the contract.

#### § 1480.403 Indian/Alaska Native Preference.

Any contract or subcontract pursuant to the Act and this Part shall require that all provisions of § 1404.70, § 1452.204-71 and § 1452.204-72 of this title shall be adhered to.

#### Subpart 1480.5—Clauses and Notices

##### § 1480.501 Notice of Restriction and Certified Offeror's Response.

(a) Each solicitation issued under the Part shall contain a notice that the proposed acquisition is restricted to certified Indian/Alaska Native economic enterprises; and, solicitation responses received from other than Indian/Alaska Native economic enterprises shall be considered non-responsive and shall be rejected.

(b) The following clause shall be included with all Bureau solicitations to comply with § 1480.203(a) and this section:

(1) This (Invitation for Bid) (Request for Proposal) is issued under the authority of the Act of June 25, 1910 (The Buy Indian Act, 25 U.S.C. 47). Accordingly, to be considered responsive to this solicitation, the offeror must present written evidence in its (bid) (proposal) that its economic enterprise is 100% owned-and-controlled by Indian(s)/Alaska Native(s). Said enterprise shall have been established prior to (bid) (proposal) opening for this contract. The ownership-and-control



criterion shall be maintained for the contract term if award is made to said enterprise.

(2) (Bids) (Proposals) received from non-Indian offerors shall be considered non-responsive and shall be rejected.

(c) In response to a specific Bureau solicitation (bid or proposal) for an acquisition under this Part, the certified economic enterprise shall also provide the following details in its response document:

(1) Description of the part of the work contemplated being done by its own forces.

(2) Description of the source of human resources (other than management personnel covered above) for the work performed by the economic enterprise.

(3) Description of the method(s) of recruiting and training Indian/Alaska Native employees, indicating the extent of soliciting employment of Indian/Alaska Native persons, as required by Section 7(b) of Pub. L. 93-638 (25 U.S.C. 452) and implemented under 48 CFR 1404.70).

(4) Description of how subcontractors (if any) will be selected in compliance with Section 7(b) of Pub. L. 93-638 (25 U.S.C. 452), and implemented under 48 CFR 1404.70 and § 1480.403 of this Part. Offeror shall furnish the names of Indian/Alaska Native persons or firms being considered for subcontracts (if any); indicate what portion of the work they would be performing; and, provide qualifications of the key personnel that will be assigned to the contract.

#### § 1480.502 Subcontracting.

The following clause shall be inserted in Act contracts when required by § 1480.402: The certified contractor shall perform work with its own forces amounting to not less than \_\_\_\_\_\* percent of the work, exclusive of the cost of materials, supplies, and administration to the prime contractor. Failure on the part of the certified contractor to submit a subcontracting plan and to perform the designated percentage of the work may be grounds for default termination.

John W. Fritz,

Acting Assistant Secretary—Indian Affairs.

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\* Insert the appropriate percentage figure from § 1480.402(b) or as determined by the Contracting Officer based on an exception granted by the Assistant Secretary—Indian Affairs.

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1803, 1804, 1805, 1812, 1813, 1814, 1815, 1816, 1817, 1825, 1827, 1831, 1832, 1835, 1842, 1844, 1845, and 1852

### Acquisition Regulations; Promulgation of NASA FAR Supplement Directive 84-3

**AGENCY:** Procurement Policy Division, National Aeronautics and Space Administration.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes miscellaneous amendments to the NASA acquisition regulations contained in NASA FAR Supplement Directive (NFS) 84-3.

**EFFECTIVE DATE:** Comments are due no later than December 17, 1984.

**ADDRESS:** Comments should be addressed to: Office of Procurement, NASA Headquarters, Procurement Policy Division (Code HP), Washington, DC 20546.

**FOR FURTHER INFORMATION CONTACT:** James H. Wilson, Procurement Policy Division (Code HP), Office of Procurement, NASA Headquarters, Washington, D.C. 20546, Telephone: (202) 453-2118.

**SUPPLEMENTARY INFORMATION:** NASA FAR Supplement (NFS) amendments incorporated in proposed NFS 84-3 affect the following acquisition regulatory subjects: Identical Bid Report, Contract Execution, Purchase Order and Related Forms, Contract Clauses, Use and Disclosure of Proposal/Quotation Information, Unsolicited Proposals, Allowable Costs and Funding, Foreign Acquisition, Date of Incurrence of Costs, New Technology Reporting, NASA Participation in Contractors' Purchasing Systems Reviews (CPSR's), Records and Reports of Government Property, Solicitation Provisions and Contract Clauses, Procurement Request Overlay Method, Contract Order of Precedence, Late Submissions, Modifications, and Withdrawals of Proposals, Fixed-Price Incentive Contracts, approval of Option Quantities, Purchases Under the Trade Agreements Act.

#### Impact

The Director, Office of Management and Budget (OMB), by memorandum dated October 4, 1982, exempted agency procurement regulations from Executive Order 12291. NASA certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). This

rule provides uniformity with other Federal agencies and reduces the administrative impact on bidders as set forth in OFPP Policy Letter 83-2.

#### List of Subjects in 48 CFR Ch. 18

Government procurement.

Accordingly, it is proposed to amend 48 CFR Ch. 18 as set forth below.

L.E. Hopkins,

Deputy Assistant Administrator for Procurement.

1. The authority citation for 48 CFR Ch. 18 reads as follows:

Authority: 42 U.S.C. 2473(c)(1).

### PART 1803—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

2. Section 1803.303 is amended by adding paragraph (c) to read as follows:

1803.303 Reporting suspected antitrust violations.

\* \* \* \* \*

(c) The contracting officer shall submit the identical bid report required by FAR 3.303(d) to NASA Headquarters Code HP. The report shall include the reasons for suspecting collusion.

### PART 1804—ADMINISTRATIVE MATTERS

3. Section 1804.103 is revised to read as follows:

#### 1804.103 Contract clause.

See Subpart 1804.72, Review and Approval of Contractual Instruments. When the clause at FAR 52.204-1, Approval of Contract, is used, the Schedule shall provide that the Assistant Administrator for Procurement is the official referred to in the clause.

### PART 1805—PUBLICIZING CONTRACT ACTIONS

#### 1805.303-70 [Amended]

4. Section 1805.303-70 is amended by revising the parenthetical material in paragraph (a)(1)(iii) to read "(but see 1815.413)".

### PART 1812—CONTRACT DELIVERY OR PERFORMANCE

#### 1812.102 [Amended]

5. The heading of section "1812.102 Contract clauses." is redesignated as "1812.104 Contract clauses." The text of section 1812.102, consisting of paragraphs (a) and (b), is given a new subsection heading reading "1812.104-70 Additional clauses."